

Exhibit 1



November 13, 2023

Harry Sandick
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**Re: *Johnson & Johnson Health Care Systems Inc. v. Save On SP, LLP*,
Case No. 2:23-mc-00019-JTF-tmp (W.D. Tenn.)**

Dear Andrew:

We write in response to your October 20 letter with respect to Accredo's subpoena compliance obligations in the above-captioned matter.

Exception Reports: You assert that it "remains unclear to us what the *litigation* purpose for this [Protected Health Information (PHI)] would be—as opposed to the *business* purpose that the New Jersey court has already addressed in rejecting JJHCS's attempts to share PHI outside of the limited set of its counsel." Oct. 20, 2023 Ltr. from A. Solinger to H. Sandick at 1. As an initial matter, given the existence of a HIPAA-compliant protective order, there is no basis at this point in the proceedings for Accredo to decline to produce unredacted documents to JJHCS. The HIPAA-compliant protective order in this matter exists to permit documents with PHI to be shared in litigation without any harm to patient privacy. 45 C.F.R. 164.512(e)(1)(v)(A) (stating that a HIPAA-compliant protective order "[p]rohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested[.]"); *see also Allgood v. Baptist Memorial Medical Group, Inc.*, No. 19-2323-JTF-tmp, 2020 WL 86455, at *4 (W.D. Tenn. Jan. 7, 2020) ("[T]he court has already entered a protective order regarding personal health information that may be disclosed in the course of this case. . . . The privacy interests of patients at Baptist are thus reasonably protected."). Given the protective order and this Court's July 24, 2023 order compelling Accredo to produce the exception reports, Accredo should produce all exception reports in unredacted form and without further delay.

In any event, JJHCS's need for unredacted documents is easily explained. As we have explained to you on multiple occasions, PHI must be included in the exception reports so that JJHCS can match up exception reports to other documents and data in our possession. To match a patient whose request for a prescription has been rejected due to their failure to be enrolled in the SaveOnSP program with other information about that same patient, we need to know which

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patients are being turned away at Accredo. Only through the production of unredacted exception reports can JJHCS make this determination.

For example, if a patient calls CarePath or SaveOnSP to complain about their prescription not being filled, we need to be able to establish that this particular patient was actually turned away due to their failure to enroll in SaveOnSP as opposed to some other reason. JJHCS will use this information for purposes of establishing SaveOnSP's liability and damages for tortious interference with contract, by showing that a given prescription fill was conditioned on the patient's willingness to breach the terms and conditions of the CarePath program. This information will also allow JJHCS to prove the harm suffered by patients who, for example, may have had their medication delayed due to a "rejection 73" when they tried to fill their prescription. Without the inclusion of PHI, JJHCS cannot match Accredo's exception reports to other patient records. All JJHCS can prove with the current exception reports is that someone, at some Accredo pharmacy, at some point in time, was turned away. This is why we have described the heavily redacted exception reports as an "island"—there is no "bridge" connecting these redacted documents to the other documents in the case.

In addition, as we have also explained many times, this request for unredacted exception reports has absolutely nothing to do with the New Jersey Court's June 7, 2023 Order. The production of documents with an Attorneys Eyes Only designation prevents a party from using those documents for a business purpose. JJHCS's request for PHI from Accredo is premised on a litigation purpose, not a desire to use the PHI for a business purpose, which would be prohibited by the protective order.

Partially unredacted exception reports: Thank you for offering to re-produce the exception reports with the patient name field unredacted. This compromise, however, does not fully address JJHCS's concerns or reasons why it needs PHI because there will likely exist multiple patients who have the same names. Without an additional PHI field unredacted, it will be extremely difficult to differentiate patients with the same names from one another. Therefore, JJHCS proposes that Accredo reproduce exception reports under an Attorney Eyes' Only designation with both the patient name and date of birth fields unredacted. We make this proposal without conceding that any redactions are appropriate and reserving all rights to seek additional PHI if needed to prepare for trial in this matter.

Complaints: Thank you for agreeing to provide a random sample of 15 patient complaints per month from January 2020 through December 2021 as a means of assessing the burden associated with the production of these documents and in order to better understand the relevance of the documents to the underlying lawsuit. As discussed during the October 17 meet and confer, we request that Accredo use the full SaveOnSP search term¹ when searching for the patient complaints. JJHCS also requests that, in addition to the random sampling of patient

¹ The full SaveOnSP search term is as follows: (SaveOn* OR "Save On SP" OR "Save On" OR SOSp).

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complaints, Accredo produce complaints made by or on behalf of a list of twenty patients who are in CarePath. A list of these patients, including names and dates of birth, is attached to this letter as Appendix A. Please provide an anticipated timeframe within which Accredo will produce this initial sampling of patient complaints.

* * * *

We request that Accredo responds to the issues addressed herein by November 20.

Very truly yours,

/s/ Harry Sandick
Harry Sandick

**CONFIDENTIAL HEALTH INFORMATION
ATTORNEYS' EYES ONLY
SUBJECT TO DISCOVERY CONFIDENTIALITY ORDER**

APPENDIX A

NAME	DATE OF BIRTH
Redacted: PHI	